

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

**ELI MISTOVICH, Jr.**  
**Plaintiff**

**V.**

**ELIZABETH BOWDEN, STEPHEN  
URBAN, STEPHEN NEVERO and  
ALISON LEATON,  
Defendants**

**CIVIL ACTION NO. 04-12340-EFH**

**PLAINTIFF'S NOTICE OF OBJECTIONS TO DEFENDANTS' PROPOSED EXHIBIT**

Now comes the Plaintiff, Eli Mistovich, Jr., and in accordance with the Court's Order of January 9, 2006, hereby notifies the Defendants that he objects to Defendants' proposed exhibit number 20 on the Joint List of Proposed Exhibits filed on June 12, 2006. This exhibit is identified as "Charts of Resumes Referred to Eli Mistovich by Alison Leaton (Bates Nos. M0019-20). (First 2 pages are Mistovich Dep. Exh. 9)". It is identified as Defendants' Proposed Exhibit 101 on the Revised Joint List of Proposed Exhibits filed on June 19, 2006.

The grounds for Plaintiff's Objections are relevancy, hearsay and lack of foundation.

The objected to exhibit purports to be a “summary” of names and comments prepared by Alison Leaton. In her deposition, Ms. Leaton could not identify the date on which the document was prepared. Plaintiff Mistovich never saw the document and neither Defendants Bowden, Nevero or Urban identified the document as having anything to do with their recommendation to terminate Eli Mistovich. The document contains duplicate names and inconsistent information.

Accordingly the document is objected to because it is not relevant under Rule 402 of the Federal Rules of Evidence. If the document is considered marginally relevant, it should be

excluded because its probative value is substantially outweighed by the danger of unfair prejudice, confusion of issues or undue delay and waste of time under Rule 403.

Additionally, the document is hearsay and thus not admissible under Rule 802. It fails to come within any of the exceptions under Rules 803 or 804.

Finally, to the extent that the document purports to be a "summary", the writings, and other documents on which it purports to be based have never been produced or made available for Plaintiff. Accordingly, the foundation is not properly laid under Rule 1006.

Therefore, Plaintiff objects to the admission of this document.

Respectfully submitted,  
Eli Mistovich, Jr.,  
by his attorney,

/s/ Frank J. Teague  
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Dated: June 19, 2006